

APPEAL NO. 032382
FILED OCTOBER 14, 2003

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing (CCH) was held on August 5, 2003. The hearing officer decided that the respondent (claimant herein) sustained a compensable injury on _____, and had disability beginning on March 11, 2003, and continuing through the date of the CCH. The appellant (carrier herein) files a request for review, arguing that these determinations are contrary to the evidence. The claimant responds that the decision of the hearing officer should be affirmed.

DECISION

A timely appeal not having been filed, the decision and order of the hearing officer have become final pursuant to Section 410.169.

Pursuant to Section 410.202(a), a written request for appeal must be filed within 15 days of the date of receipt of the hearing officer's decision. Section 410.202 was amended effective June 17, 2001, to exclude Saturdays, Sundays, and holidays listed in Section 662.003 of the Texas Government Code from the computation of time in which to file an appeal. Section 410.202(d). Tex. W.C. Comm'n, 28 TEX. ADMIN. CODE § 143.3(c) (Rule 143.3(c)) provides that an appeal is presumed to have been timely filed if it is mailed not later than the 15th day after the date of receipt of the hearing officer's decision and received by the Texas Workers' Compensation Commission (Commission) not later than the 20th day after the date of receipt of the hearing officer's decision. Both portions of Rule 143.3(c) must be satisfied in order for an appeal to be timely. Texas Workers' Compensation Commission Appeal No. 002806, decided January 17, 2001.

Commission records indicate that the hearing officer's decision was received by the carrier on August 11, 2003. The appeal needed to be mailed no later than September 3, 2003, the 15th day from the date of receipt and received by September 10, 2003, the 20th day from the date of receipt. On October 3, 2003, the Commission received the mailed request for review in an envelope bearing a postage-metered date of August 25, 2003. Since this copy of the request for review was not received by September 10, 2003, it was untimely.

The carrier submitted a copy of its request for review by facsimile transmission (fax) on September 10, 2003. The carrier explained in its cover letter of that date that it had received back the certified mail return receipt from the claimant, but not from the Commission, and had called the Commission, learning that the Commission had not yet received the mailed request for review. The fax, deemed in accordance with Rule 102.5(f)(1) to have been sent on the date it was received by the Commission, in this case September 10, 2003, was likewise untimely submitted.

The appeal being untimely, the jurisdiction of the Appeals Panel was not properly invoked and the decision is final pursuant to Section 410.169.

The true corporate name of the insurance carrier is **COMBINED SPECIALTY INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CORPORATION SERVICE COMPANY
800 BRAZOS
AUSTIN, TEXAS 78701.**

Gary L. Kilgore
Appeals Judge

CONCUR:

Chris Cowan
Appeals Judge

Edward Vilano
Appeals Judge